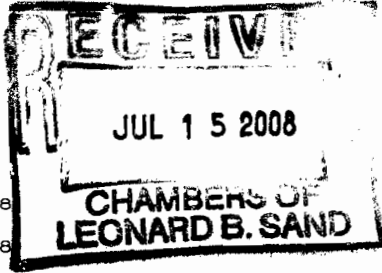


SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP



FOUR TIMES SQUARE  
NEW YORK 10036-6522

TEL: (212) 735-3000  
FAX: (212) 735-2000  
www.skadden.com

FIRM/AFFILIATE OFFICES

BOSTON  
CHICAGO  
HOUSTON  
LOS ANGELES  
PALO ALTO  
SAN FRANCISCO  
WASHINGTON, D.C.  
WILMINGTON

BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
PARIS  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO  
VIENNA

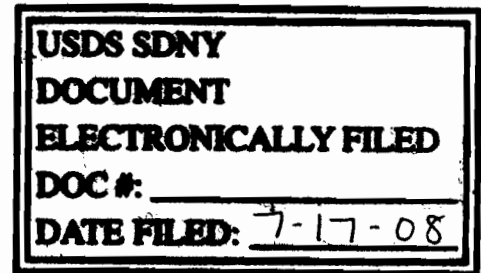
DIRECT DIAL  
(212) 735-2628  
DIRECT FAX  
(917) 777-2628  
EMAIL ADDRESS  
LEONARD.B.SAND@SKADDEN.COM

MEMO ENDORSED

July 15, 2008

BY HAND

Hon. Leonard B. Sand  
Senior United States District Judge  
United States District Court  
for the Southern District of New York  
500 Pearl St., Room 1650  
New York, New York 10007



RE: *In re Merrill Lynch & Co., Inc., Securities, Derivative  
and ERISA Litigation*, 07-CV-9633 (LBS) (AJP)  
(DFE), 07-CV-9696 (LBS) (AJP)(DFE), 07-CV-10268  
(LBS) (AJP)(DFE)

Dear Judge Sand:

We represent Merrill Lynch & Co., Inc., ("Merrill") and certain affiliates in the above-referenced actions. Defendants' motions to dismiss the consolidated amended complaints in each of the Securities Action (07-CV-9633), the Derivative Action (07-CV-9696) and ERISA Litigation (07-CV-10268) are scheduled to be filed on July 21, 2007. In an effort to avoid duplication on the briefing for these motions, all parties have conferred and respectfully submit the briefing proposal outlined below. The parties also respectfully request a modification of the briefing schedule as set forth below.

Securities Action, 07-CV-9633(LBS) (AJP) (DFE). The Consolidated Amended Complaint is 265 pages and 686 paragraphs in length, asserting fifteen claims against different combinations of fifteen defendants. We respectfully request

MEMO ENDORSED

Hon. Leonard B. Sand  
 July 15, 2008  
 Page 2

on behalf of the Merrill corporate defendants<sup>1</sup> permission to file a memorandum of law in support of the motion to dismiss not to exceed eighty-five pages. The individual defendants,<sup>2</sup> who are each separately represented, intend to join in Merrill's memorandum and to file separate memoranda that will each be under twenty pages, focused on issues specific to them. We also understand that defendant Deloitte & Touche LLP will be submitting a separate memorandum and does not expect to exceed the Court's twenty-five page limit.

Plaintiffs consent, provided that they be permitted the same total number of pages for their opposition as the sum of all the memoranda submitted by defendants in connection with the motions.

Derivative Action, 07-CV-9696(LBS) (AJP) (DFE). We respectfully request permission for all 14 defendants in the Derivative Action<sup>3</sup> to file one joint memorandum of law not exceeding 50 pages. Plaintiffs consent, provided that they be permitted to file an opposition memorandum of law not exceeding 50 pages.

ERISA Action, 07-CV-10268 (LBS) (AJP) (DFE). We respectfully request permission for all defendants in the ERISA Action<sup>4</sup> to file one joint memorandum of law not exceeding 50 pages. Plaintiffs consent, provided that they be permitted to file an opposition memorandum of law not exceeding 50 pages.

Proposed Revision to the Briefing Schedule for all Actions. Under the current schedule, set forth in the Court's April 8, 2008 Order, Plaintiffs' oppositions to the motions to dismiss are due on August 20, 2008, and defendants' replies are due thirty days thereafter, on September 18, 2008. The parties request that the schedule be extended such that Plaintiffs in each action have sixty days, until September 19, 2008, to file their oppositions to the motions and Defendants have forty-five days thereafter, until November 3, 2008, to file their replies.

---

<sup>1</sup> Merrill, Merrill Lynch Capital Trust I, Merrill Lynch Capital Trust II, Merrill Lynch Capital Trust III and Merrill Lynch, Pierce, Fenner & Smith Incorporated.

<sup>2</sup> E. Stanley O'Neal, Jeffrey Edwards, Ahmass Fakahany and Gregory Fleming.

<sup>3</sup> Merrill, E. Stanley O'Neal, Jeffrey Edwards, Ahmass Fakahany, Gregory Fleming, Carol T. Christ, Armando M. Codina, Virgis W. Colbert, Alberto Cribiore, John D. Finnegan, Judith Mayhew Jonas, Joseph W. Prueher, Ann N. Reese and Charles O'Rosotti.

<sup>4</sup> Merrill, E. Stanley O'Neal, Peter Stingi and Louis DiMaria.

**MEMO ENDORSED**

Hon. Leonard B. Sand  
July 15, 2008  
Page 3

Respectfully submitted,



Jay B. Kasner

cc: All counsel (by facsimile)  
Magistrate Judge Andrew J. Peck  
Magistrate Judge Douglas F. Eaton  
(by hand)

Endorsement

*Reviewed and  
concent  
to endorse  
Sand  
JSB  
7/16/08*

**MEMO ENDORSED**